

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 09, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSEPH A. PAKOOTAS, an individual
and enrolled member of the Confederated
Tribes of the Colville Reservation; and
DONALD R. MICHEL, an individual and
enrolled member of the Confederated
Tribes of the Colville Reservation; and
THE CONFEDERATED TRIBES OF
THE COVILLE RESERVATION,
Plaintiffs,
and
THE STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
TECK COMINCO METALS, LTD., a
Canadian corporation,
Defendant.

No. 2:04-CV-00256-SAB

**ORDER DENYING
DEFENDANT'S MOTION FOR
CERTIFICATION UNDER
28 U.S.C. § 1292(b)**

**ORDER DENYING DEFENDANT'S MOTION FOR CERTIFICATION
UNDER 28 U.S.C. § 1292(b) *1**

1 Before the Court is Defendant's Motion for Certification Under 28 U.S.C.
2 § 1292(b) of Orders on Ripeness and for Stay, ECF No. 2636. The motion was
3 considered without oral argument. Defendant moves to certify two Orders for
4 interlocutory appeal that address whether Plaintiffs' claims for natural resource
5 damages are ripe. A district court has discretion under 28 U.S.C. § 1292(b) to
6 certify a ruling for interlocutory appeal when it (1) "involves a controlling question
7 of law"; (2) "there is substantial ground for difference of opinion"; and (3) "an
8 immediate appeal from the order may materially advance the ultimate termination
9 of the litigation." 28 U.S.C. § 1292(b). In this case, the Court finds the § 1292(b)
10 factors are not met, and certification of either Order for interlocutory appeal is not
11 warranted.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. Defendant's Motion for Certification Under 28 U.S.C. § 1292(b) of
14 Orders on Ripeness and for Stay, ECF No. 2636, is **DENIED**.

15 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
16 this Order and to provide copies to counsel.

17 **DATED** this 9th day of August 2023.



21
22

A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive, flowing style.

23 Stanley A. Bastian
24 Chief United States District Judge
25
26
27
28